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**Proposition 19:**  
**The Home Protection for Seniors, Severely  
Disabled, Families, and Victims of Wildfire and  
Natural Disasters Act**

Legislative Constitutional Amendment

By

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## I. EXECUTIVE SUMMARY

Proposition 19 is a legislatively referred constitutional amendment seeking to change certain property tax rules and create two related funds. It will allow those over the age of 55, severely disabled, or victims of wildfires and natural disasters to transfer their property tax base to a new residence.<sup>1</sup> Proposition 19 will also create two new funds, the California Fire Response Fund and the County Revenue Protection fund.<sup>2</sup>

A **Yes** vote means those over the age of 55, severely disabled, or victims of wildfire and natural disaster would have eligibility for property tax savings when moving anywhere in the state.<sup>3</sup> Additionally, only properties inherited for the use as primary residences would be eligible for pre-existing property tax benefits that are attached to inherited property.<sup>4</sup>

A **No** vote means that some individuals over the age of 55 would be eligible for property tax savings if they meet current qualifications.<sup>5</sup> Additionally, all properties inherited would continue to receive property tax savings.<sup>6</sup>

### Path to the Ballot

Under California law, the Legislature is granted the power to refer proposed constitutional amendments to the people.<sup>7</sup> A two-thirds majority vote is needed in both the Assembly and Senate before a proposed amendment can be referred to the people.<sup>8</sup>

Proposition 19 was introduced as Assembly Constitutional Amendment 11 (ACA 11) by lead authors Assembly Members Mullin, Burke, Friedman, Gray, and Mayes as well as Principal Coauthors Senators Atkins, Galgiani, and Hill.<sup>9</sup> ACA 11 passed its Senate floor vote with 29 ayes, 5 noes, and 6 abstentions (approval by 72.5% of the Senate).<sup>10</sup> It later passed its Assembly floor vote with 56 ayes, 5 noes, and 18 abstentions (approval by 70%

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<sup>1</sup> Cal. Sec'y of State, Official Voter Information Guide: California Primary Election, Tuesday November 3, 2020., <https://voterguide.sos.ca.gov/propositions/19/> (Last Visited, Sept. 22, 2020).

<sup>2</sup> ACA 11, 2020 Leg., 2019-2020 Reg. Sess. (Cal. 2020).

<sup>3</sup> *Official Voter Guide*, California Secretary of State, <https://voterguide.sos.ca.gov/propositions/19/> (Last Visited, Sept. 22, 2020).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Cal. Constitution Art. XVIII, § 1

<sup>8</sup> *Id.*

<sup>9</sup> Current Bill Status of ACA 11, [https://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill\\_id=201920200ACA11](https://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill_id=201920200ACA11) (Last Visited, Sept. 19, 2020).

<sup>10</sup> Senate Floor Vote of ACA 11 (June 25, 2020), [https://leginfo.legislature.ca.gov/faces/billVotesClient.xhtml?bill\\_id=201920200ACA11](https://leginfo.legislature.ca.gov/faces/billVotesClient.xhtml?bill_id=201920200ACA11) (Last Visited, Sept. 19, 2020).

of the Assembly).<sup>11</sup> Upon passage by the legislature, ACA 11 was enrolled, filed, and chaptered by the Secretary of State.<sup>12</sup> ACA 11 will now appear on the November ballot as Proposition 19.<sup>13</sup> A similar, previously qualified initiative backed by the California Association of Realtors was also on the ballot due to lack of a withdrawal by the deadline.<sup>14</sup> However, the Secretary of State removed the nearly identical measure from the ballot, resulting in only Proposition 19 appearing on the ballot. At the time of publication, there had been no legal challenge to this removal.<sup>15</sup>

## II. THE LAW

### A. Current Law

As the law stands today, the California Constitution (amended by the passage of Proposition 13 in 1978) limits real property *ad valorem* taxes to one percent of the cash value of the property at 1975 values.<sup>16</sup> Properties will then only be reappraised if it is a new property or there is a change in ownership.<sup>17</sup> There is also a constitutional limit of inflationary growth of two percent per year.<sup>18</sup>

The California Constitution has an exception that allows for persons over the age of 55 or who are considered disabled to transfer the base year value of their property to a new property within their county or a county that allows transfers from other counties.<sup>19</sup> A base year value is the value of the property as of 1975-1976 or when a change of ownership occurs or there is new construction on the property.<sup>20</sup> Current law also states that a transfer of a primary residence between parent and child, or between grandparent and grandchild so long as the parents are deceased, is not considered a purchase or change of ownership

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<sup>11</sup> Assembly Floor Vote of ACA 11 (June 26, 2020) [https://leginfo.ca.gov/faces/billVotesClient.xhtml?bill\\_id=201920200ACA11](https://leginfo.ca.gov/faces/billVotesClient.xhtml?bill_id=201920200ACA11) (Last Visited, Sept. 19, 2020).

<sup>12</sup> Current Bill Status of ACA 11, [https://leginfo.ca.gov/faces/billStatusClient.xhtml?bill\\_id=201920200ACA11](https://leginfo.ca.gov/faces/billStatusClient.xhtml?bill_id=201920200ACA11) (Last Visited, Sept. 19, 2020).

<sup>13</sup> *Qualified Statewide Ballot Measures*, California Secretary of State, <https://www.sos.ca.gov/elections/ballot-measures/qualified-ballot-measures> (Last Visited, Sept. 19, 2020).

<sup>14</sup> Howard Jarvis Taxpayers Association, About Page. [hjta.org/about-hjta](http://hjta.org/about-hjta) (Last Visited, Sept. 22, 2020).

<sup>15</sup> *Id.*

<sup>16</sup> SENATE FLOOR, COMMITTEE ANALYSIS OF ACA 11 at 2, (June 25, 2020).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Understanding Proposition 13*, Office of the Assessor, County of Santa Clara, <https://www.sccassessor.org/index.php/faq/understanding-proposition-13#:~:text=Understanding%20Base%20Year%20Values&text=Properties%20that%20have%20not%20sold,of%20the%20date%20of%20transfer>. (Last Visited, Sept. 19, 2020).

for assessing the new value of the property for taxation purposes.<sup>21</sup> The current law was set in place by the passage of Proposition 13 in 1978.

## B. History

There has been a long history of ballot initiatives regarding this area that has led to proposition 19; California's tax property structure has evolved since Proposition 13 and its subsequent amendments. Primarily, Proposition 13 (1978) was approved by voters to limit *ad valorem* taxes on real property to one percent of its cash value. The full cash value is the estimated price a property would sell for which, as mentioned above, is determined by the County Assessor's evaluation when the property is purchased, newly constructed, or a change in ownership has occurred. Proposition 13 froze this assessment as the property tax base, after which a one percent property tax is then imposed on the property.<sup>22</sup> Without an event outside of the parameters of Proposition 13, property taxes on a home can only increase at two percent per year or at the inflation rate—whichever is less.<sup>23</sup>

Further approved amendments to Proposition 13 continued on through the 1990's. California Proposition 58 (1986) amended Proposition 13 to allow transfer of primary residences between parents and their children with tax rates based on cash value at the time of purchase of original residence. Proposition 58 also included the million-dollar exemption, which allowed for the same transfer principle previously stated to be applicable to all types of real property owned by the transferor up to the first one million dollars; after the first million, the rest will not be eligible for treatments as a transfer. Additionally, in 1986, voters approved Proposition 60, which allowed people over the age of 55 to transfer the taxable value of their current home to a new home, so long as the new home was of the same or lesser value and within the same county as the homeowner's current residence.<sup>24</sup> This provides property tax relief for those eligible in order to encourage seniors to downsize and into smaller, less expensive homes without being penalized.<sup>25</sup>

Two years later, California voters expanded Proposition 60 via Proposition 90 (1988) to allow the same rights of transfer to another county, as long as the receiving county participated in such a program.<sup>26</sup> In 1996, through Proposition 193, California voters approved the transfer and rights granted under Proposition 13 and subsequent

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<sup>21</sup> SENATE FLOOR, COMMITTEE ANALYSIS OF ACA 11at 2 (June 25, 2020).

<sup>22</sup> Shiner, Meghan and Knobel, John (2018) "Proposition 5: Property Tax Transfer", *California Initiative Review (CIR)*: Vol. 2018, Article 6.

<sup>23</sup> CAL. REV. & TAX. CODE § 51.

<sup>24</sup> Voter Information Guide for 1986, General Election (1986), [http://repository.uchastings.edu/ca\\_ballot\\_props/971](http://repository.uchastings.edu/ca_ballot_props/971).

<sup>25</sup> Proposition 60, Silicon Valley Realtors (2018), <https://siliconvalleyrealtorsblog.com/tag/proposition-60/>.

<sup>26</sup> Voter Information Guide for 1988, General Election (1988) [http://repository.uchastings.edu/ca\\_ballot\\_props/988](http://repository.uchastings.edu/ca_ballot_props/988)

amendments to grandchildren from grandparents, so long as the parents are deceased.<sup>27</sup> Approved initiatives relating to disaster victims and the disabled under Proposition 60 came in under Proposition 50 (2002), which allowed for disaster related transfer of residential and commercial property owners within the same county, and Proposition 110 (1994), which did the same as Proposition 50 but for the disabled.<sup>28</sup>

In 2018, California voters saw a ballot initiative that was very similar to Proposition 19. Proposition 5 (2018) removed the same restrictions for those who are over 55, severely disabled, and disaster destroyed property, no matter the new home's market value or location in the state.<sup>29</sup> A difference between the 2018 initiative and Proposition 19 is that the 2018 initiative did not limit the buyer's number of moves. Additionally, a large difference is that the Legislative Analyst's Office (LAO) concluded that the 2018 amendment would result in an overall annual loss; the LAO reports a revenue gain under Proposition 19, as analyzed below. California voters rejected Proposition 5 with 58 percent of the electorate voting "no" in the statewide election.<sup>30</sup>

### C. Proposed Law

Proposition 19 would amend the current structure of transferring tax rates on residential property. Beginning on April 1, 2021, persons over the age of 55, those who are severely disabled, and now those who are victims of wildfires or natural disasters would be able to transfer the taxable value of their property to a new residence located anywhere within the state.<sup>31</sup> The transfer would need to occur no later than two years from the sale of the original property.<sup>32</sup> Further, the proposed law would allow persons over the age of 55, victims of natural disasters, and those severely disabled to transfer their property under these exceptions up to three times.<sup>33</sup>

The proposed amendment would also make some changes to the transferring of property tax rate between family members. Beginning on February 16, 2021, the words "purchase" and "change of ownership" would be excluded from determining the full cash value of a transfer of a family home or family farm.<sup>34</sup> Excluding these terms from the determining the full cash value will make the passage of family homes and farms considered a "transfer" which would allow for the property is to keep its same tax rate.

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<sup>27</sup> Property Appraisal. Exception. Grandparent-Grandchild Transfer. California Proposition 193 (1996), [http://repository.uchastings.edu/ca\\_ballot\\_props/1114](http://repository.uchastings.edu/ca_ballot_props/1114).

<sup>28</sup> CAL. REV. & TAX. CODE § 69.

<sup>29</sup> Shiner, Meghan and Knobel, John (2018) "Proposition 5: Property Tax Transfer", *California Initiative Review (CIR)*: Vol. 2018, Article 6.

<sup>30</sup> CBS, *CA Prop 5: California Rejects Measure to Expand Property Tax Break*, CB8, Nov. 7, 2019.

<sup>31</sup> ACA 11 §2.1(b)(1), 2020 Leg., 2019-2020 Reg. Sess. (Cal. 2020).

<sup>32</sup> *Id.*

<sup>33</sup> ACA 11 §2.1(b)(2)(B)(3), 2020 Leg., 2019-2020 Reg. Sess. (Cal. 2020).

<sup>34</sup> ACA 11 §2.1(c)(1), 2020 Leg., 2019-2020 Reg. Sess. (Cal. 2020).

Under the proposal, the family home must continue to be used as the principal residence of the transferee to claim the property tax benefits explained above.<sup>35</sup> Additionally, the proposed amendment includes a formula to assess the taxable value of a transferred family home.<sup>36</sup>

In addition to amending property tax rules regarding property transfers, the proposed amendment will also create two new funds, the California Fire Response Fund and the County Revenue Protection Fund.<sup>37</sup> The Director of the Department of Finance will determine any increase in revenue the state gains through the implementation of the new property tax rules.<sup>38</sup> The California Fire Response Fund will receive 75 percent of the funds calculated by the Director and the County Revenue Protection Fund will receive 15 of the funds.<sup>39</sup> These funds would be made available by decreased school funding obligations created by increased property tax revenue and by increased income taxes resulting from the sale of properties.<sup>40</sup>

The funds within the California Fire Response Fund will be distributed in a variety of ways. Twenty percent of the funds will be granted to the California Department of Forestry and Fire Protection (Cal Fire) for "fire suppression staffing."<sup>41</sup> The remaining eighty percent will be in a subset fund named the Special District Fire Response Fund, from which distributions will be calculated by taking into account the longevity of a fire district and its ability to respond to major fires.<sup>42</sup>

Counties are to report to the California Department of Tax and Fee Administration the gain or loss they faced as a result of implementing the property tax changes in the proposed amendment.<sup>43</sup> Counties that have recorded a negative gain due to the amendment's implementation will be eligible for funds under the County Revenue Protection Fund.<sup>44</sup> The California Department of Tax and Fee Administration will determine every three years whether a county has experienced a gain or loss, and if a county experienced a loss, they shall be reimbursed with funds from the County Revenue Protection Fund.<sup>45</sup> If there are

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<sup>35</sup> *Id.*

<sup>36</sup> ACA 11 §2.1(c)(1)(A)-(B)(i)-(ii), 2020 Leg., 2019-2020 Reg. Sess. (Cal. 2020).

<sup>37</sup> ACA 11 §2.2(b)(1)-(2), 2020 Leg., 2019-2020 Reg. Sess. (Cal. 2020).

<sup>38</sup> ACA 11 §2.2(d)(1), 2020 Leg., 2019-2020 Reg. Sess. (Cal. 2020).

<sup>39</sup> ACA 11 §2.2(e)(1)-(2), 2020 Leg., 2019-2020 Reg. Sess. (Cal. 2020).

<sup>40</sup> ASSEMBLY FLOOR, COMMITTEE ANALYSIS OF ACA 11, at 3 (June 25, 2020).

<sup>41</sup> ACA 11 §2.2(f)(1), 2020 Leg., 2019-2020 Reg. Sess. (Cal. 2020).

<sup>42</sup> ACA 11 §2.2(e)(2)(A)-(C)(4), 2020 Leg., 2019-2020 Reg. Sess. (Cal. 2020).

<sup>43</sup> ACA 11 §2.3(a)(1)-(3), 2020 Leg., 2019-2020 Reg. Sess. (Cal. 2020).

<sup>44</sup> ACA 11 §2.3(b), 2020 Leg., 2019-2020 Reg. Sess. (Cal. 2020).

<sup>45</sup> ACA 11 §2.3(c), 2020 Leg., 2019-2020 Reg. Sess. (Cal. 2020).

insufficient funds, the California Department of Tax and Fee Administration will allocate a pro rata share of the lost funds.<sup>46</sup>

### III. FISCAL EFFECTS

In conjunction with the Department of Finance, the LAO produces a report to estimate the fiscal effects of the proposed initiatives. When assessing Proposition 19, the LAO noted there will be increased property tax revenue, as there will be more properties being reassessed at the time of inheritance because Proposition 19 narrows the inheritance reassessment exclusion. Overall, this exclusion would result in increases in property tax payments for 40,000 to 60,000 properties each year, which will increase revenue for local governments. The LAO estimates that in the first few years of this initiative being approved, schools and local governments would each probably gain over \$100 million per year, and eventually grow to gain around \$1 billion per year.<sup>47</sup>

However, the LAO estimates that there will be reduced property tax revenues from the expansion of the rules for eligible homeowners, as there will be reduced taxes from people who would have moved out of a local government's tax base anyway.<sup>48</sup> In contrast, there may be potentially higher taxes from more home building and higher home prices as more people will be selling their homes and buying different ones; unfortunately for local jurisdictions, the revenue losses from those who would have moved anyway are projected to be bigger than the gains from higher home prices and more building. The LAO reports that these losses will probably start at tens of millions of dollars per year and eventually grow to hundreds of millions of dollars per year.<sup>49</sup>

One additional consideration that the LAO reported on is the higher administrative costs for counties by tens of millions of dollars annually to create and carry out new functions. Furthermore, the LAO noted the potential change in state funding for schools that could ultimately result in most schools receiving the same amount they would have received without the incorporation of Proposition 19.<sup>50</sup> Additionally, as noted above in the Proposed Law section, the Proposition sets up funding for fire suppression staffing and a Special District Fire Support Fund, as well as the County Revenue Protection Fund.<sup>51</sup>

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<sup>46</sup> ACA 11 §2.3(d), 2020 Leg., 2019-2020 Reg. Sess. (Cal. 2020).

<sup>47</sup> LEGISLATIVE ANALYST'S OFFICE, Proposition 19, at 6 (Sept. 23, 2018), available at <https://lao.ca.gov/ballot/2019/190478.pdf>.

<sup>48</sup> LEGISLATIVE ANALYST'S OFFICE, Proposition 19, at 6 (Sept. 23, 2018), available at <https://lao.ca.gov/ballot/2019/190478.pdf>.

<sup>49</sup> LEGISLATIVE ANALYST'S OFFICE, Proposition 19, at 6 (Sept. 23, 2018), available at <https://lao.ca.gov/ballot/2019/190478.pdf>.

<sup>50</sup> LEGISLATIVE ANALYST'S OFFICE, Proposition 19, at 6 (Sept. 23, 2018), available at <https://lao.ca.gov/ballot/2019/190478.pdf>.

<sup>51</sup> ACA 11, 2020 Leg., 2019-2020 Reg. Sess. (Cal. 2020).



Overall, due to some parts of the measure likely increasing revenue and smaller parts decreasing revenue—it is likely that revenue gains will exceed revenue losses. For local governments and schools alike, this will amount to tens of millions of dollars per year in the initial years, and eventually grow to hundreds of millions of dollars per year.<sup>52</sup>

#### IV. DRAFTING ISSUES

##### A. Ambiguous Terminology

Overall, Proposition 19 is drafted in a concise manner with little to no ambiguity. There do not seem to be drafting issues regarding terms that are ambiguous or can be interpreted in different ways. Most terminology is given definition or has previously been defined by current statute.<sup>53</sup> Additionally, funding provisions have been given language that defines how and by what equation funding will be allocated.

##### B. Severance

There is no severance clause within Proposition 19. If a provision of the initiative is found to be unconstitutional, the court will determine if the invalid provision can be severed from the remaining provisions by applying three criteria of severability; “grammatically, functionally, and volitionally severable.”<sup>54</sup> If a provision of the proposed amendment is to be deemed unconstitutional, issues will arise as to whether or not the other sections will be able to operate. On its face, if one or both of the proposed funds are deemed to be unconstitutional, it will likely have no impact on the function of the change in tax policy. However, if for some reason the change in tax policy is deemed unconstitutional or invalid, the proposed funds would be unable to be created as both are linked to funding from the proposed tax changes, although there appears to be no indication that the proposed tax policy changes would be deemed invalid.

#### V. CONSTITUTIONAL ISSUES

##### A. Federal Constitution

Proposition 19 likely will not trigger any constitutional issues under the Federal Constitution. However, a challenge alleging a violation of the Equal Protection Clause under the Fourteenth Amendment may be plausible. The Fourteenth Amendment states, in part, “nor shall any state...deny to any person within its jurisdiction the equal protection of the laws.”<sup>55</sup> The potential issue rests on whether limiting the property tax provisions only to

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<sup>52</sup> LEGISLATIVE ANALYST’S OFFICE, Proposition 19, at 6 (Sept. 23, 2018), available at <https://lao.ca.gov/ballot/2019/190478.pdf>.

<sup>53</sup> ACA 11, 2020 Leg., 2019-2020 Reg. Sess. (Cal. 2020) at 7, 8.

<sup>54</sup> *California Prolife Council Political Action Committee v. Scully*, 989 F. Supp. 1282, 1300 (E.D. Cal. 1998) (Quoting *Gerken v. FPFC*, 6 Cal. 4th 707, 721-22, 863 P.2d 694 (1993)).

<sup>55</sup> U.S. Const. amend. XIV § 1.

those over the age of 55, those severely disabled, or victims of wildfires or natural disasters denies equal protection to other classes of Californians.

The United States Supreme Court has already addressed similar issues when it held that the classifications in Proposition 13 and Article XIII A of the California Constitution did not violate the equal protection clause.<sup>56</sup> In *Nordlinger v. Hahn*, the United States Supreme Court stated that “the Equal Protection Clause is satisfied so long as there is a plausible policy reason for the classification...”<sup>57</sup> The Court found the exemptions for those over the age of 55 and transfers between parents and children to “further legitimate purposes” by encouraging those who are older to move to places more suitable for their lifestyle and encourage “neighborhood continuity and stability...”<sup>58</sup> Therefore, the classifications of persons over the age of 55, persons severely disabled, and victims of wildfire or natural disaster will likely not violate the Equal Protection Clause of the Fourteenth Amendment.

## B. State Constitution

As a legislatively referred constitutional amendment, Proposition 19 must meet certain constitutional requirements. The California Constitution requires that a legislative referred constitutional amendment be “prepared and submitted that it can be voted on separately.”<sup>59</sup> California’s Supreme Court has interpreted this provision, known as the separate vote requirement, to mean that the provisions of the amendment must be “reasonably germane to a common theme, purpose, or subject.”<sup>60</sup>

There are two possible separate vote requirement issues that may appear if Proposition 19 is challenged. The first possible issue is the relation between changing property tax transfer provisions and the creation of two new funds.<sup>61</sup> The second issue is the relation between individuals who are over the age of 55, those considered severely disabled, and those who are victims of wildfires and other natural disasters.<sup>62</sup>

The California Supreme Court made clear that the “reasonably germane” standard “does not impose a stricter standard requiring a showing of ‘close’ or ‘functional’ relatedness,” simply a connection to a “common theme, purpose, or subject.”<sup>63</sup> In *Californians for an Open Primary v. McPherson*, Resolution 103, and later Proposition 60 was challenged for violating the separate vote requirement.<sup>64</sup> The proposed amendments

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<sup>56</sup> *Nordlinger v. Hahn*, 505 U.S. 1, 18 (1992).

<sup>57</sup> *Id.* at 11.

<sup>58</sup> *Id.* at 17.

<sup>59</sup> Cal. Constitution Art. XVIII, § 1.

<sup>60</sup> *Californians For An Open Primary v. McPherson*, 38 Cal.4th 735, 777 (2006).

<sup>61</sup> ACA 11, 2020 Leg., 2019-2020 Reg. Sess. (Cal. 2020).

<sup>62</sup> *Id.*

<sup>63</sup> *McPherson*, *supra*, note 60 at 777.

<sup>64</sup> *Id.* at 739-40

attempted to create two changes to the constitution, first was to create changes to primary elections and second was to address state bond obligations.<sup>65</sup> The California Supreme Court determined that these two provisions “are not reasonably germane to a common theme, purpose, or subject.”<sup>66</sup>

A potential challenge on the basis of the separate vote requirement will likely not be successful. Opponents may suggest the categorizations and creation of funds in a property tax amendment are not closely related. However, proponents of the proposition can likely assert that protecting vulnerable populations is a broad enough umbrella to encompass the provisions of Proposition 19, and that both the tax changes and the creation of funds are reasonably germane to this purpose of protecting vulnerable populations.<sup>67</sup>

More specifically, proponents can argue that persons over the age of 55, severely disabled, and victims of wildfires are all vulnerable populations. The purpose of a wildfire fund is to protect such populations and prevent more individuals from becoming victims of wildfire destruction. Further, the creation of a county fund is to protect potential loss of revenue so local governments can provide essential services to vulnerable populations. Thus, such a challenge alleging a violation of the separate vote requirement would likely not be successful.

## VI. POLICY CONSIDERATIONS

### A. Proponents

Proponents of Proposition 19 include YES on 19, California Association of Realtors, California Professional Firefighters, National Association of Realtors, California Nurses Association, and the California Faculty Association.<sup>68</sup> The YES on 19 coalition has six main arguments:

#### Limits Property Taxes for Seniors and People with Disabilities

Proponents argue that this Proposition provides savings and housing relief for vulnerable Californians, by allowing them to transfer their tax rate and Prop 13 savings from their existing home to a replacement home anywhere in the state. With this allowance, proponents note that vulnerable Californians can afford to move closer to family, medical care, or a home that is more suited to their needs.<sup>69</sup> Additionally, the proponents contest that the current scheme is unfair and consists of ever-changing location restrictions.<sup>70</sup>

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<sup>65</sup> *Id.*

<sup>66</sup> *Id.* at 789.

<sup>67</sup> *Id.* at 777.

<sup>68</sup> YES on 19, Our Coalition Page. <https://www.yeson19.vote/our-coalition> (Last Visited, Sept. 22, 2020).

<sup>69</sup> YES on 19, Homepage. <https://www.yeson19.vote> (Last Visited, Oct. 20, 2020).

<sup>70</sup> *Id.*

### Limits Property Tax Increases for Wildfire Victims

In the case of wildfire victims, proponents state that “over 20,000 homes [have] been destroyed by wildfires in the past few years” which has resulted in victims facing tax hikes when they move to their replacement homes.<sup>71</sup> YES on 19 notes that Proposition 19 provides savings and tax protections needed for victims, which will allow those who are forced to move as a result of wildfires a replacement home anywhere in California.

### Protecting Family Homes

Proponents note that Proposition 19 protects family homes so that the children can afford to live in a family home without a sudden tax increase. YES on 19 asserts that as intended under current law, there is a constitutional right for parents and grandparents to pass the family down to a child for that child’s use as a primary residence.<sup>72</sup>

### Closing Unfair Tax Loopholes

YES on 19 proponents note that the California tax paying system is being exploited by the wealthy, celebrities, and East Coast investors who avoid paying their fair share on luxury estates and vacation homes. Proponents argue that this has resulted in inequitable tax payments where Californians are paying tax bills 10 to 20 times higher than their neighbors. Advocates for Proposition 19 encourage Californian voters to close this loophole in the name of equity.<sup>73</sup>

### Housing Relief for Californians

Proponents of Proposition 19 note that the initiative will open up tens of thousands of homes that have not been on the market for decades, which will help stabilize housing costs and create opportunities for new buyers, as well as renters, across the state. This will create more opportunity for home ownership while encouraging seniors to move to more comfortable housing.<sup>74</sup>

### Fire Protection, Local Government, and School Districts

Proposition 19 will deliver funding for cities, counties, and school districts by closing the tax loophole. Proponents argue that the proposition will generate hundreds of millions in annual revenue for fire protection and community services. The funding will especially focus on fire districts in rural and urban communities, “to fix inequities that threaten life-saving response times to wildfires” and emergencies.<sup>75</sup>

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<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

Overall, proponents argue that the proposition closes unfair loopholes and protects savings and homeowners.

## B. Opponents

Opponents argue that Proposition is a billion-dollar tax increase on families that takes away “one of the best tools” parents have to help their children—the right to pass their property on without any increase in property taxes.<sup>76</sup> The main opponent against Proposition 19 is the Howard Jarvis Taxpayers Association (HJTA); HJTA is a nonprofit lobbying and policy organization that advocates for taxpayer-friendly legal and political structures.<sup>77</sup> The measure is also opposed by over a dozen major California newspapers including the Los Angeles Times and the San Francisco Chronicle.<sup>78</sup>

### Howard Jarvis Tax Association

The HJTA has three main arguments against the passage of Proposition 19.<sup>79</sup> The first is that this Proposition effectively repeals Proposition 58 (1986) and forces the reassessment of inherited or transferred property; opponents cite that the LOA report notes that will result in 40,000 to 60,000 families with higher property taxes each year. The second argument that the HJTA notes is that California voters already rejected the replacement home tax exemption—by 58 percent.<sup>80</sup> HJTA argues that now the proponents are trying to repeat the 2018 proposition, but also now with a tax increase.<sup>81</sup> Finally, the HJTA argues that the California Association of Realtors wants to pass this initiative in order to have more home sales and therefore a larger profit for themselves, even at the expense of a “multi-billion-dollar tax increase”.<sup>82</sup>

### Editorials

Newspapers opposing the initiative, such as the Los Angeles Times, note that the tax break included in Proposition 19 expands inequities in an already unfair tax system.<sup>83</sup> Opponents argue that the structure that Proposition 19 creates would largely benefit those

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<sup>76</sup> Cal. Sec’y of State, Official Voter Information Guide: California Primary Election, Tuesday November 3, 2020., <https://voterguide.sos.ca.gov/propositions/19/> (Last Visited, Sept. 22, 2020).

<sup>77</sup> Howard Jarvis Taxpayers Association, About Page. [Hjta.org/about-hjta](http://Hjta.org/about-hjta) (Last Visited, Sept. 22, 2020)

<sup>78</sup> California Initiative Editorial Scorecard, Fox and Hounds. <https://www.foxandhoundsdaily.com/2020/10/california-initiative-editorial-scorecard-2/> (Last Visited, Oct. 6, 2020).

<sup>79</sup> Howard Jarvis Taxpayers Association, Proposition 19 is latest assault on taxpayers, Jul. 5, 2020., <https://www.hjta.org/california-commentary/proposition-19-is-latest-assault-on-taxpayers/> (Last Visited, Sept. 22, 2020).

<sup>80</sup> CBS, *CA Prop 5: California Rejects Measure to Expand Property Tax Break*, CB8, Nov. 7, 2019.

<sup>81</sup> Howard Jarvis Taxpayers Association, Proposition 19 is latest assault on taxpayers, Jul. 5, 2020., <https://www.hjta.org/california-commentary/proposition-19-is-latest-assault-on-taxpayers/> (Last Visited, Sept. 22, 2020).

<sup>82</sup> *Id.*

<sup>83</sup> Los Angeles Times, *Endorsement: Vote no on Prop. 19, an unwelcome combo of good and bad tax proposals*, Sept. 17, 2020.

who were able to purchase a residence in years prior, allowing them to benefit from values skyrocketing.<sup>84</sup> This would give those earlier purchasers a great deal of buying power in addition to a tax break that would further disadvantage those who do not own a home and cannot yet afford one — therefore not benefiting those who are struggling from the California housing crisis.<sup>85</sup> Opponents of Proposition 5 (2018), the similar initiative on the ballot two years ago, additionally noted that Proposition 13(1978) already affords seniors protections and that this population does not need to be given another tax shelter.<sup>86</sup>

### Political Considerations

The opponents argue that the political establishment ignored the law when organizing this Proposition. HJTA notes that the California Association of Realtors wanted to withdraw its initially submitted measure and have the Legislature replace it with a similar proposal for political placating reasons.<sup>87</sup> HJTA asserts that because the California Association of Realtors missed the deadline for withdrawing its initiative, and Secretary of State Padilla took the initiative off the ballot, the political establishment was acting without authority.

## VII. CONCLUSION

Proposition 19 would allow homeowners who are over 55, disabled, or wildfire/natural disaster victims to transfer their primary tax base to a replacement residence and would create two related funds.<sup>88</sup> It would also restrict inherited properties eligible for property tax saving to strictly primary homes or farms.<sup>89</sup> The fiscal impacts that Proposition 19 can have on California are local governments potentially gaining tens of millions of property tax values per year—with schools and other local and state revenues seeing a similar increase; this proposition however would increase County property tax administration costs by likely tens of millions of dollars per year.<sup>90</sup>

Voting yes on Proposition 19 would mean that all homeowners who are over 55, disabled, or wildfire/natural disaster victims would be eligible for the property tax savings when they move, and the only inherited properties used as a primary home would be

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<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> Sacramento Bee, *Supporters say Proposition would help California's housing crisis. That's a sham*, Sept. 17, 2020.

<sup>87</sup> Howard Jarvis Taxpayers Association, Proposition 19 is latest assault on taxpayers, Jul. 5, 2020, <https://www.hjta.org/california-commentary/proposition-19-is-latest-assault-on-taxpayers/> (Last Visited, Sept. 22, 2020).

<sup>88</sup> Cal. Sec'y of State, Official Voter Information Guide: California Primary Election, Tuesday November 3, 2020., <https://voterinfo.sos.ca.gov/propositions/19/> (Last Visited, Sept. 22, 2020).

<sup>89</sup> *Id.*

<sup>90</sup> LEGISLATIVE ANALYST'S OFFICE, Proposition 19, at 6 (Sept. 23, 2018), available at <https://lao.ca.gov/ballot/2019/190478.pdf>.

eligible for property tax savings.<sup>91</sup> Voting no on Proposition 19 would make no changes to the current tax structure, meaning some California homeowners who are over 55 or disabled would be eligible for the property tax exemption when they move, and that all inherited properties—not just primary homes—are eligible for property tax savings.<sup>92</sup>

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<sup>91</sup> Cal. Sec’y of State, Official Voter Information Guide: California Primary Election, Tuesday November 3, 2020, <https://voterguide.sos.ca.gov/propositions/19/> (Last Visited, Sept. 22, 2020).

<sup>92</sup> *Id.*